

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.344 OF 2006

Mrs.Usha S. Rege & Anr. ...Petitioners.

Versus

Mr.Sadanand V. Gote & Ors. ...Respondents.

Shri S.A.Sawant for the Petitioners.

CORAM : S.C.DHARMADHIKARI,J.

DATE : 30th JANUARY, 2006.

P.C. :

1. Heard Shri Sawant - learned Counsel appearing for the petitioners. The petitioners are the original defendant Nos.1 & 2 in Special Civil Suit No.853 of 2000.

2. This Writ Petition is directed against the order passed by the Trial Court refusing to frame an Issue at the instance of the petitioners who are original defendant Nos.1 & 2. The Issue that the petitioners desires that the trial Court should frame is "Whether the original plaintiffs prove that the shares in questions have been purchased by them from the petitioners-original defendant Nos.1 & 2."

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2. The trial Court is right in observing that it is not necessary to frame such a Issue separately because this aspect is already covered by Issue No.1. In my view, the trial Court is not in error in so observing. Additionally, from perusal of Issues, as framed, to my mind in addition to Issue No.1 the said aspect is also covered by Issue No.5. For the plaintiffs to succeed in claiming the declaration of ownership, they will necessarily have to trace title to the shares in question. All contentions of the petitioners as well as the original plaintiffs in that behalf are kept open. Petition is disposed of.

(S.C.DHARMADHIKARI,J.)